

JUDGE DAVID GUADERRAMA
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

2018 MAR 25 PM 2:31

WESTERN DISTRICT OF TEXAS
BY *PL* DEPUTY

UNITED STATES OF AMERICA,)
)
PETITIONER,)
)
v.)
)
REMINGTON ARMS COMPANY, INC.)
MOHAWK 10 C .22 CALIBER RIFLE,)
BEARING SERIAL NO. 2460246, and)
)
APPROXIMATELY 2,128 ROUNDS OF)
UNKNOWN AMMUNITION,)
)
RESPONDENTS.)

CIVIL ACTION NO.

EP 18CV0098

VERIFIED COMPLAINT FOR FORFEITURE

Comes now Petitioner, United States of America, acting by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, pursuant to Rule G, Supplemental Rules of Federal Rules of Civil Procedure, and respectfully states as follows:

I.
NATURE OF THE ACTION

This action is brought by the United States of America seeking forfeiture to the United States of the properties described below:

1. **Remington Arms Company, Inc. Mohawk .22 caliber rifle, bearing serial number 2460246; and**
2. **Approximately 2,128 rounds of unknown ammunition,**

(hereinafter referred to as the “Respondent Properties”).

II.
STATUTORY BASIS FOR FORFEITURE

This is a civil forfeiture action *in rem* brought against the Respondent Properties pursuant to 18 U.S.C. § 924(d)(1), for violations of 18 U.S.C. §§ 922(g)(1) and (3). Title 18, United States Code, Section 924(d)(1) states, in part:

Title 18 U.S.C. § 924

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, shall be subject to seizure and forfeiture under the provisions of this chapter. . .

Because the Respondent Properties constitute a firearm involved in or used in a violation of 18 U.S.C. §§ 922(g)(1) and (3), the Respondent Properties are subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1).

III.
JURISDICTION AND VENUE

Under 28 U.S.C. § 1345, this Court has jurisdiction over an action commenced by the United States, and under 28 U.S.C. § 1355(a), jurisdiction over an action for forfeiture. This Court has *in rem* jurisdiction over the Respondent Properties under 28 U.S.C. §§ 1355(b) and 1395(b). Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this District, and pursuant to 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Respondent Properties were seized in this District.

The Respondent Properties were seized in the Western District of Texas, on or about November 30, 2017, and turned over to the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”). The Respondent Properties have remained in the custody of ATF, within the jurisdiction

of the United States District Court, Western District of Texas, El Paso Division, and shall remain within the jurisdiction of the court pending litigation of this case.

IV.
FACTS IN SUPPORT OF FORFEITURE

On or about November 30, 2017, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent (SA) Michael D. Lane was notified of a search warrant executed by the El Paso Police Department's (EPPD) Narcotics Division. SA Lane responded and met with investigators regarding the seizure of property.

At approximately 15:30 hours, Detectives with the EPPD Narcotics Section went to 9530 Linsdey, El Paso, Texas to execute search warrant 2017SW00112. EPPD Detectives located 5.83 pounds of marijuana, 10 grams tetrahydrocannabinol (THC), .8 grams of Tramadol Hydrochloride, 2.5 grams Acetaminophen with Codeine and other narcotic evidence along with several items of drug paraphernalia. During the search, detectives found the Respondent Properties with the drug evidence.

At approximately 16:20 hours, EPPD Detective Pfeil notified SA Lane of the firearm, who responded to interview Timothy Ramos (Ramos), suspected owner of the Respondent Properties. SA Lane met with investigators at the EPPD Northeast Regional Command Center (NERC) and inspected the Respondent Properties. SA Lane function checked the firearm and determined it functioned correctly. SA Lane observed the rifle to be a Remington and most likely not made in Texas. A firearm Nexus Expert would be asked to inspect the firearm later to confirm this. SA Lane was provided with a criminal history and determined Ramos was a convicted felon. Ramos had a felony conviction from 2004; under cause number 20040D00733 in El Paso, Texas.

SA Lane then interviewed Ramos in an interview room at the NERC. Ramos was in custody and SA Lane advised him of his Miranda Rights. Ramos waived his rights and agreed to answer the agent's question. Ramos admitted ownership and possession of the Respondent Properties that were found in his residence. Ramos advised he had a felony conviction and smoked marijuana regularly.

SA Lane asked Ramos about ownership of the Respondent Properties, Ramos' drug use, and if Ramos knew he was a convicted felon. Ramos said the firearm was his, that he received it when he was 14 years old from his father as a Christmas gift. Ramos said the ammunition was his and he had assorted ammunition from other firearms he previously owned. Ramos was aware he was a convicted felon, and admitted to smoking marijuana every day. Ramos said he grown his own marijuana so he does not have to buy it, works as a pizza delivery person, and owns his home. Ramos advised his wife has a disease and the marijuana helps her symptoms. Ramos advised he does not sell marijuana, and everything that he grows, he keeps for himself.

SA Lane seized the Respondent Properties pursuant to Title 18 USC . §§ 922(g)(1) and (3). Ramos remained at the NERC in state custody. Ramos' wife, Michelle Ramos, was also in the residence and arrested by EPPD for drug related charges.

V.
PRAYER

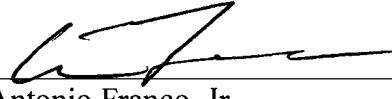
WHEREFORE, Petitioner, United States of America, prays that due process issue to enforce the forfeiture of the Respondent Properties, that due notice pursuant to Rule G(4) be given

to all interested parties to appear and show cause why forfeiture should not be decreed¹, that a warrant for an arrest *in rem* be ordered, that the Respondent Properties be forfeited to the United States of America, that the Respondent Properties be disposed of in accordance with the law and for any such further relief as this Honorable Court deems just and proper.

Dated: March 23, 2018
El Paso, Texas

Respectfully submitted,
JOHN F. BASH
United States Attorney for the
Western District of Texas

By:



Antonio Franco, Jr.
Assistant United States Attorney
Texas Bar No. 00784077
700 E. San Antonio Ave., Suite 200
El Paso, Texas 79901
Tel: (915) 534-6884
Fax: (915) 534-3461

¹ Appendix A, which is being filed along with this complaint, will be sent to those known by the United States to have an alleged interest in the Respondent Property.

VERIFICATION

Special Agent, Michael Lane, declares and says that:

I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, assigned to the El Paso Field Office, and I am the investigator responsible for the accuracy of the information provided in this complaint.

I have read the above Verified Complaint for Forfeiture and know the contents thereof based upon my personal participation in the investigation, my conversations with others, and my review of documents and other evidence. Based upon information and belief, the allegations contained in the Verified Complaint for Forfeiture are true and correct. Because the Verified Complaint is being submitted for the limited purpose of stating sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial, it does not contain every fact known by me or the United States. Where the actions, conversations, and statements of others are related therein, they are related in substance and in part, unless otherwise stated.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this the 23rd day of March, 2018.



Special Agent Michael Lane
Bureau of Alcohol, Tobacco, Firearms and Explosives

JUDGE DAVID GUADERRAMA
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

F I L E D

UNITED STATES OF AMERICA,)
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PETITIONER,)
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MOHAWK 10 C .22 CALIBER RIFLE,)
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2018 MAR 25 PM 2:31

WESTERN DISTRICT COURT
BY *PL* DEPUTY

CIVIL ACTION NO.

EP 18CV0098

NOTICE OF COMPLAINT FOR FORFEITURE

On March 20, 2018, the United States of America, by and through its United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, filed a Verified Complaint for Forfeiture against the properties described below, which are also specifically described in the Verified Complaint for Forfeiture, and which are subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1) for violations of 18 U.S.C. §§ 922(g)(1) and (3), namely:

1. **Remington Arms Company, Inc. Mohawk .22 caliber rifle, bearing serial number 2460246; and**
2. **Approximately 2,128 rounds of unknown ammunition,**

(hereinafter referred to as the “Respondent Properties”).

Pursuant to Rule G(4)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice to any person who reasonably appears to be a potential claimant shall be by direct notice. Accompanying this notice is the Verified Complaint for Forfeiture which has been filed in this cause and which describes the Respondent Properties. Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in the Respondent Properties who has

received direct notice of this forfeiture action must file a Claim in compliance with Rule G(5)(a), with the court within **thirty-five (35) days after the notice was sent, if delivered by mail (if mailed, the date sent is provided below), or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **twenty-one (21) days** of the Claim being filed. The Claim and Answer must be filed with the Clerk of the Court, 525 Magoffin, Suite 105, El Paso, Texas 79901, and copies of each must be served upon Assistant United States Attorney Antonio Franco, Jr., 700 E. San Antonio Ave, Suite 200, El Paso, Texas 79901, or default and forfeiture will be ordered. *See 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claim and Asset Forfeiture Actions.*

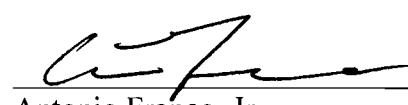
Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

APPENDIX A

DATE NOTICE SENT:_____

JOHN F. BASH
United States Attorney
for the Western District of Texas

By:



Antonio Franco, Jr.
Assistant United States Attorney
Texas Bar No. 00784077
700 E. San Antonio Ave., Suite 200
El Paso, TX 79901
Tel: 915-534-6884
Fax: 915-534-3461

RECEIVED

MAR 26 2018
CLERK, WESTERN DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
DEPUTY
BY

JUDGE DAVID GUADERRAMA
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,)
PETITIONER,)
v.)
REMINGTON ARMS COMPANY, INC.)
MOHAWK 10 C .22 CALIBER RIFLE,)
BEARING SERIAL NO. 2460246, and)
APPROXIMATELY 2,128 ROUNDS OF)
UNKNOWN AMMUNITION,)
RESPONDENTS.)

) CIVIL ACTION NO.

EP 18 CV 0098

WARRANT FOR THE ARREST OF PROPERTY

**TO THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES OR
OTHER AUTHORIZED LAW ENFORCEMENT OFFICER OR ANY OTHER PERSON
OR ORGANIZATION AUTHORIZED BY LAW TO ENFORCE THE WARRANT:**

WHEREAS, a Verified Complaint for Forfeiture *in rem* was filed on March 20, 2018, against one Remington Arms Company, Inc. Mohawk 10C .22 caliber rifle, bearing serial number 2460246 and approximately 2,128 rounds of unknown ammunition (hereinafter referred to as "Respondent Properties"), alleging that the Respondent Properties are subject to forfeiture to the United States of America pursuant to 18 U.S.C. § 924(d)(1) for violations of 18 U.S.C. §§ 922(g)(1) and (3), and

WHEREAS an Order has been entered by the United States District Court for the Western District of Texas that a Warrant for Arrest of Property be issued as prayed for by Petitioner United States of America,

YOU ARE THEREFORE COMMANDED to arrest the Respondent Properties as soon as practicable by serving a copy of this warrant on the custodian in whose possession, custody or control the Respondent Properties are presently found, and to use whatever means may be

appropriate to protect and maintain it in your custody until further order of this Court, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Properties and to make a return as provided by law.

SIGNED this _____ day of March, 2018.

JEANNETTE J. CLACK
United States District Clerk
Western District of Texas

By: _____
Deputy

RECEIVED

MAR 26 2018
CLERK OF THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO

JUDGE DAVID GUADERRAMA
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,

)

PETITIONER,

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v.

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REMINGTON ARMS COMPANY, INC.

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MOHAWK 10 C .22 CALIBER RIFLE,
BEARING SERIAL NO. 2460246, and

)

APPROXIMATELY 2,128 ROUNDS OF
UNKNOWN AMMUNITION,

)

RESPONDENTS.

)

CIVIL ACTION NO.

EP,18CV0098

ORDER FOR WARRANT OF ARREST OF PROPERTY

WHEREAS, on March 20, 2018, the United States of America, by and through its United States Attorney for the Western District of Texas, John F. Bash, and Assistant U.S. Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture *in rem* against one Remington Arms Company, Inc. Mohawk 10 C .22 caliber rifle, bearing serial number 2460246 and approximately 2,128 rounds of unknown ammunition (hereinafter referred to as "Respondent Properties"), alleging that the Respondent Properties are subject to forfeiture to the United States of America pursuant to 18 U.S.C. § 924(d)(1) for violations of 18 U.S.C. §§ 922(g)(1) and (3), IT IS THEREFORE

ORDERED that a Warrant for the Arrest of Property against the Respondent Properties issue as prayed for, and that the Bureau of Alcohol, Tobacco, Firearms and Explosives for the Western District of Texas, or any other law enforcement officer, or any other person or organization authorized by law to enforce the warrant, be commanded to arrest the Respondent Properties and take them into possession for safe custody as provided by Rule G, Supplemental

Rules of Federal Rules of Civil Procedure, until further order of the Court, and to use whatever means may be appropriate to protect and maintain it in their custody, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Properties, and to make a return as provided by law.

SIGNED this _____ day of March, 2018.

UNITED STATES DISTRICT JUDGE

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 UNITED STATES OF AMERICA

JUDGE DAVID GUADERRAMA

(b) County of Residence of First Listed Plaintiff
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Antonio Franco, Jr., Assistant United States Attorney
 700 E. San Antonio, Suite 200
 El Paso, Texas 79901 (915) 534-6884

DEFENDANTS

1. Remington Arms Company, Inc. Mohawk .22 caliber rifle, bearing number 2460246; and approximately 2,128 rounds of unknown

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

EP 18CV0098

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	REAL PROPERTY <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	CIVIL RIGHTS PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation
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 Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 18 U.S.C. § 924(d)(1)

VI. CAUSE OF ACTION

 Brief description of cause:
 Firearm involved or used in a knowing violations of 18 U.S.C. §§ 922(g)(1) and (3)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMANDS CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/20/2018



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE